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UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

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STATE FORESTRY LAWS

A parallel classification showing the comparative progress of each State in forestry legislation

MARYLAND

(Serial 1—Through Reg. Sess., 1914)

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PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation," the comparison is simplified, and the progress of each State, or lack of it, in these particulars, is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This division comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

SEC. 1, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911.)

State board of forestry—Personnel—Expenses.—There shall be a State board of forestry, consisting of seven members, the governor, comptroller, president of Johns Hopkins University, president of the Maryland State Agricultural College, State Geologist, and one citizen of the State known to be interested in the advancement of forestry, and one practical lumberman engaged in the manufacture of lumber within this State, who shall be appointed by the governor, to serve for a term of two years, which board shall act without compensation, save for actual necessary expenses incurred in the performance of their official duties. [L. 1906, Ch. 294.]

SEC. 2, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914).

State Forester—Qualifications—Expenses—Duties, in general.—There shall be appointed by the State Board of Forestry a State Forester, who shall be a technically trained forester of not less than two years' experience in professional forestry work; his compensation shall be fixed by the Board and he shall be allowed reasonable traveling and field expenses incurred in the performance of his official duties. He shall under the general supervision of the State Board of Forestry have direction of all forest interests and all matters pertaining to forestry and the forest reserves within the jurisdiction of the State. He shall appoint, subject to the approval and confirmation of the State Board of Forestry, such assistants and employes as may be necessary in executing the duties of his office and the purposes of the Board of Forestry; the compensation of such assistants and employes to be fixed by the State Board of Forestry. He shall have charge of all Forest Wardens in the State and aid and direct them in their work; take such action as is authorized by law to prevent and extinguish forest fires, enforce all laws pertaining to forest and woodland, and prosecute for any

violation of such laws; collect data relative to forest destruction and conditions; direct the protection and improvement of State parks and forest reserves and co-operate with land owners as described in Section 4 of this article. He shall annually deliver a course of lectures at the Maryland State Agricultural College bearing upon forestry and silviculture, subject to the approval of the Trustees of the College and of the State Board of Forestry, and as far as his duties as State Forester will permit, carry on an educational course of lectures on Forestry at the Farmers' Institutes and similar meetings within the State. He shall act as Secretary of the State Board of Forestry and shall prepare for the Board annually a report on the progress and condition of State Forest work and recommend therein plans for improving the State system of forest protection, management and replacement. [L. 1906, Ch. 294. L. 1914, Ch. 823.]

SEC. 4, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Co-operative working plans.—The state forester shall upon request, under the sanction of the state board of forestry, and whenever he deems it essential to the best interests of the people of the State, co-operate with counties, towns, corporations and individuals in preparing plans for the protection, management and replacement of trees, wood-lots and timber tracts, under an agreement that the parties obtaining such assistance pay at least the field expenses of the men employed in preparing said plans. [L. 1906, Ch. 294.]

SEC. 8, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914).

County Commissioners to levy and appropriate for tree planting, forest protection, etc.—The Board of County Commissioners of the several counties of this State are hereby authorized to levy and appropriate money for purposes of tree planting and care of trees, and for forest protection, improvement, management and purchase. [L. 1906, Ch. 294. L. 1910, Ch. 161. L. 1914, Ch. 823.]

SEC. 15, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Forest reserve fund.—All money received as penalties for violations of the provisions of this article, less the cost of collection and not otherwise provided for, together with any amount obtained from the State forest reserves, shall be paid into the state treasury to the credit of the forest reserve fund, which fund is hereby created; and the monies in said fund are hereby appropriated for purposes of forest protection, management, replacement and extension, under the direction of the state board of forestry. [L. 1906, Ch. 294.]

SEC. 18, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914.)

Appropriation for forest work and fire protection.—For the maintenance, use and extension of the

work under the State Board of Forestry, and for forest fire protection, there is hereby appropriated the sum of ten thousand dollars (\$10,000) annually out of any moneys in the State Treasury not otherwise appropriated, to be placed to the credit of the State Forest Reserve fund. [L. 1912, Ch. 348, Sec. 3.]

SEC. 19.

Appropriation for publication of reports and maps.—There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated, the sum of six thousand dollars (\$6,000) for the publication of forest reports and maps of the forest areas of the several counties of the State, to be placed to the credit of the Forest Reserve Fund. [L. 1912, Ch. 348, Sec. 4.]

PART II.—FIRES.

(This division comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel, and the administrative duties, of the State organization charged with the prevention, detection, control and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

SEC. 5, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914).

Forest wardens—Appointment—Compensation—Powers.—Whenever the State Forester considers it necessary he may apply to the Governor to commission such persons as he may designate to act as Forest Wardens of this State, to enforce the forest laws and to carry out all the purposes of this article, and any work that may be assigned to them by the State Forester. If the Governor approves such persons he may appoint them Forest Wardens for a term of two years, but they shall be subject to removal at any time at the pleasure of the Governor. Such Wardens shall receive such compensation for their services as shall be fixed by the State Board of Forestry. Forest Wardens thus appointed shall before entering upon the duties of their office take the proper official oath before the Clerk of the Court of the County in which they reside, after which they shall while holding said office, possess and exercise all the authority and power held and exercised by constables at common law under the statutes of this State, so far as arresting and prosecuting persons for all violations of any of the forest laws or of the laws, rules and regulations enacted or to be enacted for the protection of the State forestry reservations, or for the protection of the fish and game contained therein are concerned. [L. 1906, Ch. 294. L. 1910, Ch. 161. L. 1914, Ch. 823.]

SEC. 6, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Duties of wardens—Assistance—Expenses—Impressing citizens, horses, etc.—Penalty for refusal—No action for trespass to lie against wardens.—It shall be the duty of the forest wardens to enforce all forest laws of this State, to protect the State forest reserves and see that all rules, regulations and laws are enforced; to report any violation of law to the state forester at the time of its occurrence, to assist in apprehending and convicting offenders, and to make an annual report to him as to forest conditions in their immediate neighborhood. When any forest warden shall see or have reported to him a forest fire, it shall be his duty to immediately repair to the seat of the fire and employ such persons and means as in his judgment seem expedient and necessary to extinguish said fire. He shall keep an itemized account of all expenses thus incurred and send such account immediately to the state forester. He shall have control and direction of all persons and apparatus engaged in extinguishing forest fires. He may summon male inhabitants of the county between the ages of 18 and 50 years to assist in extinguishing fires, and may also require the use of horses and other property needed for such purpose. Any person so summoned who is physically able, who refuses or neglects to assist, or to allow the use of horses, wagons or other material required, shall be liable to a penalty of ten dollars.¹ No action for trespass shall lie against a forest warden or anyone working under his direction, for entering lands of individuals or corporations for the purpose of extinguishing a fire, plowing furrows, or tearing down fences, or starting a back fire to check a fire that may be approaching. [L. 1906, Ch. 294. L. 1910, Ch. 161.]

SEC. 7, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914).

Expenses of extinguishing fires—Proviso.—The expenses incurred in fighting or extinguishing any fire under the direction of the State Forester, or a forest warden, shall be borne half by the county in which the fire occurred and half by the State, and shall first be payable in full by the County Commissioners of such county upon receipt of an itemized account, with vouchers approved by the State Forester; the half to be paid by the State shall be refunded by the order of the State Board of Forestry out of any moneys standing to the credit of the State Forestry Fund, upon presentation of the accounts, together with evidence that the County Commissioners have paid the sum in full. Nothing in this article shall be so construed as to relieve the owner or lessee of lands upon which fires may burn, or be started, from the duty of extinguishing such fires so far as may lie within his power. No such owner or lessee, nor person in the employ of such owner or lessee, shall receive any compensation from the State, or from the county, for fighting fires upon the lands of such owner or lessee. [L. 1906, Ch. 294. L. 1910, Ch. 161. L. 1912, Ch. 348, Sec. 7.]

¹ For provisions concerning prosecutions, see sec. 14, on p. 4.

SEC. 9, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Notices, fire and trespass—Penalty for destruction—Citizens to extinguish or report fires—Penalty for failure.—The state forester shall furnish notices, printed in large letters upon cloth, calling attention to the dangers of forest fires, and to forest fire and trespass laws and their penalties; such notices shall be distributed by the state forester to forest wardens and posted by them in conspicuous places upon the State forest reserves and along the highways in forest-covered country. It shall be unlawful for any person to tear down or deface any forest fire warning notice. Any violation of the law shall be punishable by a fine of ten dollars for each and every offense.¹ It shall be the duty of any person who discovers a forest or brush fire not under the control or supervision of some person, to extinguish it or to report it immediately to the local forest warden, and failure to do so shall be punishable by a fine not to exceed ten dollars, to be recovered upon complaint of the forest warden.¹ [L. 1906, Ch. 294. L. 1910, Ch. 161.]

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 12, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS 1911).

Spark arresters, ash-pans, and fire boxes—Penalty.—Logging and railroad locomotives, donkey or threshing engines, and other engines and boilers, operated in, through, or near forest or brush, which do not burn oil as fuel, shall be provided with appliances to prevent the escape of fire and sparks from the smoke-stacks thereof, and with devices to prevent the escape of fire from ash-pans and fire boxes. Failure to comply with these requirements shall be a misdemeanor, punishable, upon conviction, by a fine of not less than \$10 nor more than \$100 for such [each?] and every offense thus committed.¹ [L. 1906, Ch. 294.]

NOTE.—In addition to the criminal provisions in Section 12, railroads are liable, as corporations, in both criminal and civil actions for causing fires in violation of Sections 10, 11, 12. For full text of provisions, see Sections 10, 11, 13, on p. 4.

SEC. 307, ART. 23, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Liability of railroad companies.—Railroad companies shall be responsible for injuries * * * by fire occasioned by their engines or carriages, upon any of their roads and the branches thereof, unless the said companies can prove to the satisfaction of the justice or other tribunal

¹ For provisions concerning prosecutions, see sec. 14, on p. 4.

before which the suit may be tried that the injury complained of was committed without any negligence on the part of the company or its agents.

SEC. 308.

Prosecutions.—The damages caused by such injuries may be sued for and recovered by * * * the person injured by fire, before a justice of the peace, when the damages claimed shall not be over one hundred dollars, and in the circuit court for the county or the courts having civil jurisdiction over the amount claimed in the city of Baltimore, when the amount claimed exceeds one hundred dollars.

SEC. 309.

Prosecutions—Service of summons.—The damages claimed under section 307 of this article, shall be sued for in the county or city where the injuries shall have been done; and a summons served upon the president or any of the directors or conductors of any of said companies shall be considered proper service upon the corporation; provided, said service shall be made at least twenty days before the return day of the writ.

SEC. 310.

Judgment by default—Property liable to execution.—If the company summoned shall not appear to answer at the time named in the summons, on the return of two summons served as aforesaid, the court or justice shall proceed to enter up judgment against said corporation as if the said corporation had regularly appeared; but such judgment shall not be rendered until affidavit shall be filed showing the name of the president, director or conductor on whom said service was made and the day of said service; and any property belonging to the corporation shall be liable to execution for the amount of such judgment.

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

(4) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 10, ART. 39A, ANNOTATED CODE (PUB. CIV. LAWS, 1911).

Setting woods, etc., on fire—Penalty.—Every individual or corporation that carelessly, negligently, or wilfully, maliciously, or with intent, sets on fire, or causes or procures to be set on fire, any woods, brush, grass, grain or stubble on lands not their own, shall be guilty of a misdemeanor, and upon conviction be punishable by a fine of not less than \$25 or more than \$1,000, or imprisonment for not less than thirty days or more than one year, or both such fine and imprisonment.¹ [L. 1906, Ch. 294.]

¹ For provisions concerning prosecutions, see sec. 14, below.

SEC. 11.

Precautions to be taken in firing woods, etc.—Evidence—Damages.—It shall be unlawful for any person or corporation, as land owner, to set, or procure another to set fire to any woods, brush, logs, leaves, grass or clearing upon their own land, unless they shall have previously taken all possible care and precaution against the spread of such fire to other lands not their own, by previously having cut and piled the same, or carefully cleared around the land which is to be burned, so as to prevent the spread of such fire. The setting of fire contrary to the provisions of this section, or allowing it to escape to the injury of adjoining lands, shall be *prima facie* proof of wilfulness or neglect, and the land owner from whose land the fire originated shall be liable in a civil action for damages for the injury resulting from such fire, and also for the cost of fighting and extinguishing the same. [L. 1906, Ch. 294.]

SEC. 13.

Liability under three preceding sections.—All individuals or corporations causing fires by violations of sections 10, 11 and 12 of this article shall be liable to the State, and to the county in which the fire occurred, in an action for debt to the full amount of all expenses incurred by the State or county in fighting and extinguishing such fire. [L. 1906, Ch. 294.]

SEC. 14.

Jurisdiction of justices of the peace—Duty of State's attorneys.—Justices of the peace for this State in the county wherein the offence shall have been committed shall have jurisdiction to hear and determine all prosecutions for the purpose of enforcing fines and penalties, collectible under the provisions of this article, not exceeding the amount of \$100.00 and of holding the offender, under proper bail if necessary, for hearing before the circuit court, committing them to the county jail until such hearing if the required bail is not furnished. It shall be the duty of the state's attorneys of the several counties to prosecute all violators of section 10 of this article. [L. 1906, Ch. 294.]

PART III.—PUBLIC FORESTS.

(This division comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

(1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

SEC. 3, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914.)

Purchase of lands and gifts for State forest reserves.—The State Board of Forestry shall have the power to purchase lands in the name of the State, suitable for forest culture and reserves, using for such purposes any special appropriation or any surplus money not otherwise

appropriated, which may be standing to the credit of the Forest Reserve Fund, and to make all rules and regulations governing State Reserves, and to employ such labor and do such work as they deem wise in developing and protecting State Reserves under their jurisdiction; and that the Governor of the State is authorized upon the recommendation of said State Board of Forestry to accept gifts of land to the State, the same to be held, protected and administered by the State Board of Forestry as State Forest Reserves, and to be used so as to demonstrate the practical utility of timber culture, water conservation and as a breeding place for game. Such gifts must be absolute except for the reservation of all mineral and mining rights over and under said lands, and a stipulation that they shall be administered as State Forest Reserves, and the Attorney-General of the State is directed to see that all deeds to the State of lands mentioned above are properly executed before the gift is accepted. [L. 1906, Ch. 294. L. 1914, Ch. 823.]

SEC. 17.

State forest nursery.—The State Board of Forestry is merely [hereby?] authorized to purchase land out of moneys standing to the credit of the Forest Reserve Fund, at a price exceeding five dollars (\$5) per acre if necessary, for the establishment of a State Forest Nursery for the purpose of growing forest trees for planting on the State Reserves, and for distribution to private land-owners at cost, to encourage tree planting. [L. 1912, Ch. 348, sec. 2.]

NOTE.—The State board of forestry and the State forester are also empowered to plant and care for trees along the roadsides, and to establish one or more State forest nurseries for the propagation of trees for roadside planting. For full text of provisions, see Sections 15A.-15I., Art. 39, Annotated Code (Pub. Gen. Laws, 1914).

SEC. 15J.

Surplus trees for State forest reserve.—Any trees grown in the State Nurseries not required for roadside planting may be used for planting on the State Forest Reserve or may be furnished to any land owner of this State at not less than the cost of production; provided such trees shall be planted according to plans approved by the State Forester. [L. 1914, Ch. 824.]

SEC. 20.

Acquirement of land for State forest reserve.—The State Board of Forestry shall, in addition to the powers heretofore granted it, have the power to be exercised within their discretion, to acquire by purchase lands between the town of Relay (or Elkridge Landing) and a point 10 miles above that town, on either side of the Patapsco River, in Howard and Baltimore counties, within a distance of one-half mile on either side from the medial line of said river, at such prices as they may determine it to be worth, within the appropriation hereunder made, the same to be paid for out of the funds appropriated by the Act of 1912, Chapter 749, to be held by the State as a State Forest Reserve, under the protection and administration of the State Board of Forestry, which shall exercise the same

power in the matter of making rules and regulations in the management thereof as other State forest reserves are now subject to or may hereafter be subject to. The territory which may be acquired hereunder shall be subject to all the general laws heretofore passed by the Legislature of the State not inconsistent herewith, but acts inconsistent with the provisions of the Act of 1912, Chapter 749, are hereby repealed. [L. 1912, Ch. 749, Sec. 12.]

SEC. 1, CH. 209, L. 1914.

Additional land for State forest reserve.—*Be it enacted by the General Assembly of Maryland,* That the State Board of Forestry is empowered to purchase lands on the watershed of the Patapsco River for a State Forest Reserve beyond the limits defined in Section 12, Chapter 749 of the Acts of 1912,¹ which said limits were defined as "Lands between the town of Relay (or Elkridge Landing) and a point ten miles above that town on either side of the Patapsco River in Howard and Baltimore Counties, within a distance of one-half mile on either side of the medial line of said river," at such price as they may determine it to be worth, using for such purpose any unexpended balance in the Forest Reserve Fund standing to the credit of the Patapsco Reserve.

SEC. 21, ART. 39A, ANNOTATED CODE (PUB. GEN. LAWS, 1914).

Acquirement of tracts in Washington county, and other tracts—Appropriation.—The State Board of Forestry be and the same is hereby authorized to acquire for and in the name of the State a tract of land in Washington county on which is situate Old Fort Frederick, together with such other additional land adjacent thereto as may in the judgment of such board be necessary and expedient, said land when so acquired to be under the control of said board, and to be used by it in the execution of such plans as may be adopted by it for the reforestation of the State. The sum of eighty-five hundred dollars (\$8,500), or so much thereof as may be necessary, be and the same is hereby appropriated to the said State Board of Forestry, to be expended by said board in the acquisition of the property and in the accomplishment of the purposes specified in this section. [L. 1912, Ch. 794, Secs. 1, 2.]

SEC. 22.

Board empowered to condemn lands—Expenses paid from forest reserve fund.—The State Board of Forestry shall have the right and power to condemn lands, earth, gravel, stone, timber, or materials, or any improvements in the name of the State, under Article 33A, title "Eminent Domain," of the Code of Public General Laws of Maryland as passed in Chapter 117 of the Acts of 1912 when such action is necessary for carrying out the purposes of any Legislative Act, or for advancing the aims of forestry, and the work of the State Board of Forestry, and they may pay all costs and expenses thus incurred out of any surplus moneys standing to the credit of the Forest Reserve Fund, not otherwise appropriated; *nothing herein contained shall apply to the City of Baltimore.* [L. 1914, Ch. 823.]

¹ See Code sec. 20, above.

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.

PART IV.—TAXATION.

(This division comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands see Part III.)

